

IN THE UNITED STATES OF AMERICA
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

UNITED STATES OF AMERICA,)
)
v.)CASE NO. 2:08CR00036-2
) (Financial Litigation Unit)
DWAYNE MITCHELL LITTLEJOHN,)
)
and)
)
EASTERN BAND OF CHEROKEE INDIANS,)
Garnishee.)

ORDER OF CONTINUING GARNISHMENT

This matter is before the Court on Answer of the Garnishee, Eastern Band of Cherokee Indians, ("Garnishee"), and Response of the United States.

The United States obtained a judgment against Littlejohn on December 22, 2009, in the amount of \$862,469.68 which included a \$100.00 assessment and \$862,369.68 in restitution to his victims. Subsequently, the United States sought to garnish Littlejohn's gaming *per capita* revenue. On May 5, 2010, the Court entered a Writ of Continuing Garnishment to the garnishee. The United States is entitled to garnishment and has satisfied the prerequisites set forth in 15 U.S.C. §1673.

The garnishee filed an Answer on July 1, 2010, stating that the United States is not entitled to garnishment rights due to a Child Support Order filed in Cherokee Tribal Court and that *per capita* payments are exempt from any garnishment other than for child support or for debts owed to the Tribe.

IT IS ORDERED that the Answer of Garnishee to the extent it may be construed as a motion to quash the writ of garnishment, is hereby DENIED; and

IT IS FURTHER ORDERED that the Order entered on June 9, 2008, in the Cherokee Tribal Court for the defendant's child support obligations, will have priority over the writ of garnishment issued by this Court until such time as the child support obligation has expired; and

IT IS FURTHER ORDERED that an Order of Continuing Garnishment is hereby ENTERED in the amount of \$861,353.68 computed through May 3, 2010 which attaches to each *per capita* distribution of gaming revenues on account of the Defendant, subject to the priority of the child support obligation; and

IT IS FURTHER ORDERED that any *per capita* gaming revenue that exceeds the child support obligation shall be garnished in favor of the United States; and payments should be made payable to the United States Clerk of Court and mailed to the United States Clerk of Court, 401 West Trade Street, Charlotte, NC 28202.

In order to ensure that each payment is credited properly, the following should be included on each check: Court Number 2:08CR000036, Defendant: Dwayne Mitchell Littlejohn.

Signed: July 29, 2010

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

